

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4250 of 2018

R.Santhanam ... Petitioner

-vs-

1. The Principal Secretary
Government of Tamil Nadu
Revenue Department
Secretariat, Fort St.George
Chennai 600 009

2. The Revenue Divisional Officer
Salem
Salem District

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned proceedings in ROC 9969/2002/A1 dated 24.01.2018 passed by the second respondent and quash the order of Dismissal from Service of the petitioner and consequently direct the respondents to pay the back wages and grant all other attendant benefits.

For Petitioner :: Mr.A.Bobblie

For Respondents :: Mr.V.Kadhirvelu
Special Government Pleader

ORDER

This writ petition has been filed challenging the correctness of the impugned order of dismissal dated 24.1.2018 passed by the Revenue Divisional Officer, Salem.

2. Learned counsel for the petitioner, attacking the impugned order, submitted that the petitioner was charged by the Vigilance and Anti-Corruption, Salem in Crime No.27/AC/2002 on a complaint given by one Maheswari alleging that the petitioner, while serving as a Village Administrative Officer, committed an offence under Sections 7, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. The said criminal case also ended in conviction. In the meanwhile, he was also placed under suspension in proceedings Roc.9969/2000(A1) dated 26.12.2002 on a report received from the Inspector of Police, Vigilance and Anti-Corruption, Salem alleging that he demanded a bribe of Rs.500/- on 24.12.2002 from Tmt.Maheswari, W/o Mahadevan for arranging the legal heirship certificate, for which a trap was laid and he was finally arrested on 24.12.2002 at 18.25 hours and lodged in the Central Prison, Salem. Subsequently, based on the judgment of conviction and sentence passed by the learned Special Judge (Special Court for trial of cases under the Prevention of Corruption Act, 1988), Salem in Special C.C.No.30 of 2014 dated 28.7.2017 holding the petitioner and the Village Assistant Mr.K.M.Dheenadayalan alias Dayalan as guilty of the charges, the impugned order of dismissal has been passed without holding any enquiry whatsoever by the Revenue Divisional Officer, Salem. As against the conviction and sentence imposed against him in Special C.C.No.30 of 2014 dated 28.7.2017, Criminal Appeal No.531 of 2017 was filed and this Court has also suspended the sentence in Crl.M.P.No.10624 of 2017 in Crl.A.No.531 of 2017 on 24.8.2017. Therefore, when the conviction and sentence imposed by the learned Special Judge (Special Court for trial of cases under the Prevention of Corruption Act, 1988), Salem have not become final, the premature order of dismissal dated 24.1.2018 issued by the Revenue Divisional Officer, Salem is liable to be set aside with a direction to reinstate the petitioner in service, he pleaded.

3. But this Court is unable to find any merit whatsoever in his contentions. Admittedly, the petitioner has been convicted by the learned Special Judge (Special Court for trial of cases under the Prevention of Corruption Act, 1988), Salem in Special C.C.No.30 of 2014 on 28.7.2017 and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo 6 months simple imprisonment for the offence under Section 7 and to undergo two years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default to undergo 6 months simple imprisonment for the offence under Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. No doubt, as against the conviction and sentence, Crl.A.No.531 of 2017 has been filed and the sentence of imprisonment alone has been suspended by this Court on 24.8.2017 in Crl.M.P.No.10624 of 2017, but not the conviction. Therefore, the petitioner, who has been convicted, cannot be allowed to continue in service.

Hence, the impugned order rightly passed after getting an explanation as to why he should not be terminated from service, cannot be found fault with. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.No.5230 of 2018 is also dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ss

To

1. The Principal Secretary to Government
Revenue Department
Secretariat, Fort St.George
Chennai 600 009

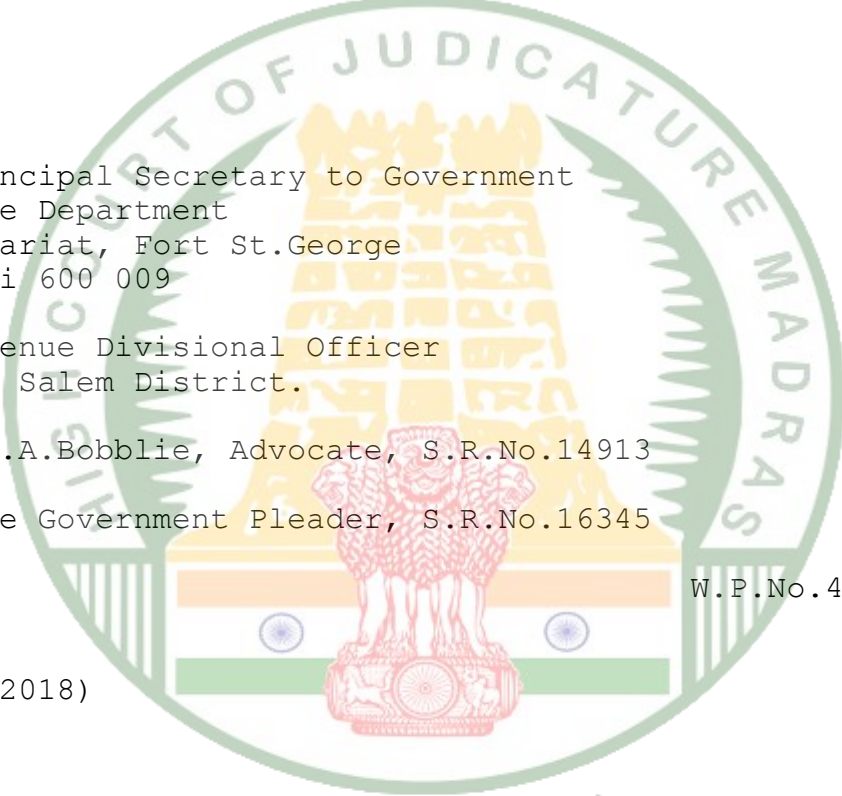
2. The Revenue Divisional Officer
Salem, Salem District.

+1cc to Mr.A.Bobblie, Advocate, S.R.No.14913

+1cc to the Government Pleader, S.R.No.16345

W.P.No.4250 of 2018

GMI (CO)
RRK(22/03/2018)



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